

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

MICHAEL L. JOHNSON,

*Plaintiff,*

v.

BRIAN BARNEY, *et al.*,

*Defendants.*

Case No. 1:21-cv-141

Judge Jeffery P. Hopkins

Chief Magistrate Judge Karen L.  
Litkovitz

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ORDER ADOPTING REPORT AND RECOMMENDATION

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This matter is before the Court on the Report and Recommendation (“R&R”) issued by Chief Magistrate Judge Karen L. Litkovitz on September 26, 2022 (Doc. 98), which recommends that this Court dismiss this matter without prejudice as to Defendant Rush for failure to perfect service.<sup>1</sup> The R&R was issued in as a result of Plaintiff Michael Johnson’s failure to respond to the Order to show cause issued on May 9, 2022. Doc. 70. Pursuant to the Order, Johnson was required to show cause, in writing and within 20 days of the date of the Order, why the Court should not dismiss this case as to Defendant Rush for failure to perfect service pursuant to Fed. R. Civ. P. 4(m). *Id.* Johnson filed his Objection to the R&R on October 26, 2022. Doc. 105.

After conducting a de novo review pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) Federal Rules of Civil Procedure, this Court **OVERRULES** the Objection (Doc. 105), **ADOPTS** the Report and Recommendation (Doc. 98), and **DISMISSES** S.D. Ohio Case No.

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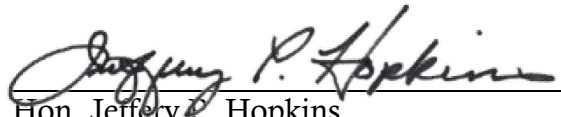
<sup>1</sup> The above-captioned case (*Barney*) has been consolidated with *Johnson v. Little, et al.*, S.D. Ohio Case No. 1:21-cv-171 (*Little*), and *Johnson v. Hill, et al.*, S.D. Ohio Case No. 1:21-cv-155 (*Hill*). See Docs. 13, 15.

1:21-cv-171 without prejudice as to Defendant Rush for failure to perfect service. This Court also agrees with the Magistrate Judge's recommendation that, pursuant to 28 U.S.C. § 1915(a)(3), any appeal may not proceed in forma pauperis as that appeal would not be taken in good faith.

The Court **DIRECTS** the Clerk to enter judgment accordingly.

**IT IS SO ORDERED.**

Dated: February 16, 2024

  
Hon. Jeffery P. Hopkins  
United States District Judge